

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INLINE CONNECTION CORPORATION,
BROADBAND TECHNOLOGY
INNOVATIONS, LLC, AND
PIE SQUARED, LLC

Plaintiffs,

v.

EARTHLINK, INC.,

Defendant.

C.A. No. 02-272 (MPT)
(Consolidated)

FINAL JUDGMENT

WHEREAS, on January 27, 2004, the Court issued a Memorandum Opinion construing the disputed claim terms of U.S. Patent Nos. 5,844,596 (“the ‘596 Patent”), 6,243,446 (“the ‘446 Patent”), 6,542,585 (“the ‘585 patent”) and 6,236,718 (“the ‘718 Patent”) (collectively “the patents in suit”) (D.I. 239);

WHEREAS, on October 14, 2004, the Court issued a Memorandum Opinion and Order granting in part and denying in part plaintiffs’ motion for reargument on claim construction and modifying the construction of the “high frequency band” term in the patents in suit (D.I. 284, 285);

WHEREAS, on April 13, 2005, the Court issued a Memorandum Opinion and Order granting defendant’s motion for summary judgment of no literal infringement of the ‘596, ‘446 and ‘585 Patents with respect to the provision of ADSL service via a DSLAM located in a telephone company’s central office; denying defendant’s motion for summary judgment of no literal infringement of the ‘596, ‘446 and ‘585 Patents with respect to the provision of ADSL service via a DSLAM located at a remote location; granting defendant’s motion for summary

judgment of no infringement of the '596, '446 and '585 Patents under the doctrine of equivalents; and denying plaintiffs' motion for summary judgment of infringement of the "signal interface" claim term of '596, '446 and '585 Patents (D.I. 296, 297);

WHEREAS, on December 5, 2006, the Court issued a Memorandum Opinion and Order granting defendant's motion for summary judgment limiting damages pursuant to 35 U.S.C. § 287 (D.I. 576, 577);

WHEREAS, on January 29, 2007, the Court issued a Memorandum Order construing additional terms of the '596, '446 and '585 Patents (D.I. 614);

WHEREAS, on February 15, 2007, the jury returned a verdict finding claim 61 of the '596 patent, claims 1-5 of the '446 patent, and claims 1, 2, 4, 8 and 9 of the '585 patent not infringed and invalid as anticipated, obvious, and failing to satisfy the written description and enablement requirements (D.I. 664);

WHEREAS, on February 5, 2010, the Court issued a Memorandum Opinion granting plaintiffs' motion for judgment as a matter of law on the invalidity issues and denying plaintiffs' motion for judgment as a matter of law on the infringement issues, and denying plaintiffs' motion for new trial (D.I. 698); and

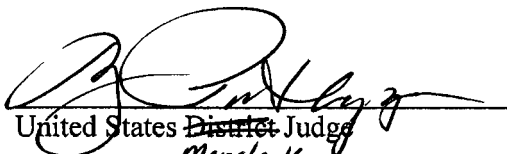
WHEREAS, this Court has issued other rulings, findings, and orders in this case;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

(1) Based on the foregoing jury verdict, and the other interlocutory findings, rulings and orders of the Court, which are all merged herein, Final Judgment is hereby entered in accordance therewith; and

(2) EarthLink's remaining counterclaims relating to the '718 patent, claim 6 of the '446 patent, and unenforceability based on prosecution laches, shall be dismissed without

prejudice, subject to EarthLink's right to revive those counterclaims in the event of a remand from the Federal Circuit Court of Appeals.


United States District Judge
Maysbrook
Dated: March 23, 2010

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